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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
Region II  
290 Broadway - 17th Floor  
New York, New York 10007-1868

## FACSIMILE REQUEST AND COVER SHEET

TO: Tom Budroe  
OFFICE: Edison - ERRED  
PHONE: 732-906-6191  
FAX: 732-906-6182

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FROM: D. Custard  
OFFICE: Office of Regional Counsel  
New Jersey Superfund Branch  
PHONE: 212-637-3140  
FAX: (212) 637-3096 Confirmation (212) 637-3251  
DATE: 5/10/06  
SUBJECT: Matteo ACO  
Number of Pages (including cover sheet): 24

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Message:

Settlement Agreement do not constitute an admission of any liability. Respondent does not admit, and retains the right to controvert in any subsequent proceedings other than proceedings to implement or enforce this Settlement Agreement, the validity of the findings of facts, conclusions of law, and determinations in Sections IV and V of this Settlement Agreement. Respondent agrees to comply with and be bound by the terms of this Settlement Agreement and further agrees that it will not contest the basis or validity of this Settlement Agreement or its terms.

## **II. PARTIES BOUND**

5. This Settlement Agreement applies to and is binding upon Respondent and Respondent's successors and assigns and all other person(s) and entities who are under the direct or indirect control of the Respondent who are involved in the performance of the Work required by this Agreement. Respondent shall instruct its officers, directors, employees and agents involved in the performance of the work required by this Settlement Agreement to cooperate in carrying out Respondent's obligations under this Settlement Agreement. Respondent's officers, directors, employees, and agents involved in the performance of the Work required by this Settlement Agreement shall take all necessary steps to accomplish the performance of said Work in accordance with this Settlement Agreement. Any change in ownership or corporate status of Respondent including, but not limited to, any transfer of assets or real or personal property shall not alter Respondent's responsibilities under this Settlement Agreement.

6. Respondent shall ensure that its contractors, subcontractors, and representatives receive a copy of this Settlement Agreement and comply with this Settlement Agreement. Respondent shall be responsible for any noncompliance with this Settlement Agreement.

## **III. DEFINITIONS**

7. Unless otherwise expressly provided herein, terms used in this Settlement Agreement which are defined in CERCLA or in regulations promulgated under CERCLA shall have the meaning assigned to them in CERCLA or in such regulations. Whenever terms listed below are used in this Settlement Agreement or in the appendices attached hereto and incorporated hereunder, the following definitions shall apply:

a. "CERCLA" shall mean the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. §§ 9601 *et seq.*

b. "Day" shall mean a calendar day. In computing any period of time under this Settlement Agreement, where the last day would fall on a Saturday, Sunday, or Federal holiday, the period shall run until the close of business of the next working day.

c. "Effective Date" shall be the effective date of this Settlement Agreement as set forth in Section XXVII.

d. "EPA" shall mean the United States Environmental Protection Agency and any successor departments or agencies of the United States.

e. "Interest" shall mean interest at the rate specified for interest on investments of the EPA Hazardous Substance Superfund established by 26 U.S.C. § 9507, compounded annually on October 1 of each year, in accordance with 42 U.S.C. § 9607(a). The applicable rate of interest shall be the rate in effect at the time the interest accrues. The rate of interest is subject to change on October 1 of each year.

f. "National Contingency Plan" or "NCP" shall mean the National Oil and Hazardous Substances Pollution Contingency Plan promulgated pursuant to Section 105 of CERCLA, 42 U.S.C. § 9605, codified at 40 C.F.R. Part 300, and any amendments thereto.

g. "Settlement Agreement" shall mean this Administrative Settlement Agreement and Order on Consent and all appendices attached hereto. In the event of conflict between this Settlement Agreement and any appendix, this Settlement Agreement shall control.

h. "Paragraph" shall mean a portion of this Settlement Agreement identified by an Arabic numeral.

i. "Parties" shall mean EPA and Respondent.

j. "Respondent" shall mean James Matteo and Sons, Inc., also trading as, Matteo Iron and Metal, Inc.

k. "Section" shall mean a portion of this Settlement Agreement identified by a Roman numeral.

l. "Site" shall mean the Matteo Iron and Metal Inc., Inc. Site, encompassing approximately 80 acres, located in West Deptford, Gloucester County, New Jersey and further designated as Lot 2, Blocks 128 and 325. The mailing address for the Site is 1692 Crown Point Road, Thorofare, New Jersey.

m. "State" shall mean the State of New Jersey.

n. "Waste Material" means (1) any "hazardous substance" under Section 101(14) of CERCLA, 42 U.S.C. §9601(14); (2) any "pollutant or contaminant" under Section 101(33) of CERCLA, 42 U.S.C. §9601(33); (3) any "solid waste" under Section 1004(27) of the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. §6903(27); and (4) any mixture containing any of the constituents noted in (1), (2) or (3), above.

o. "Work" shall mean all activities Respondent is required to perform under this Settlement Agreement.

#### **IV. EPA'S FINDINGS OF FACT AND CONCLUSIONS OF LAW**

8. The Site is located at 1692 Crown Point Road, Thorofare, Gloucester County, New Jersey and is further designated as Lot 2, Blocks 128 and 325.

9. The current owner of record for the Site is James Matteo and Sons, Inc. Site operations included a junkyard, recycling facility, and an unregistered landfill. Currently, Respondent operates a scrap metal recycling facility at the Site doing business as Matteo Iron and Metal, Inc.

10. Crushed battery casings are present throughout most of the northern portion of the Site. The casings visibly protrude from the ground surface, including along the banks of Hessian Run. Casings are also evident in the tidal marshlands.

11. The Site is adjacent to a residential trailer park. Trails are present throughout the Site from off-site areas. There are at least seven established trails into the southern portion of the Site. Most of these trails lead directly to or near the trailer park. In addition, the central portion of the Site, where the crushed battery casings are buried along the Hessian Run, is accessible via land from the rear of the scrap yard.

12. The State conducted a comprehensive remedial investigation of the Site from approximately September 2000 to October 2002. The analytical data revealed elevated levels of lead in the soil throughout the battery casing burial area, the scrap yard, and the adjoining creek sediments around the Site. Additionally, there are noncontiguous spots of soil contamination throughout the Site. Polychlorinated biphenyls ("PCBs"), antimony, copper, arsenic, cadmium, mercury, nickel, and zinc were also detected in the soil at some locations at levels exceeding state residential and nonresidential standards. There were also sporadic detections of polyaromatic hydrocarbons (PAHs) and volatile organic compounds (VOCs) in the shallow subsurface soil. The analytical results indicate that a variety of CERCLA designated hazardous substances, as listed in 40 C.F.R. Table 302.4, are present at the Site. Surface soil sampling conducted at the Site by EPA in April 2005 generally confirmed previous State sample results in the landfill and battery casing burial area with respect to lead contamination.

13. The Site is currently owned by the Respondent. As the current owner of the facility, Respondent is a "potentially responsible party" within the meaning of Section 107(a)(1) of CERCLA, 42 U.S.C. §9607(a)(1).

14. Respondent is a "person" within the meaning of Section 101(21) of CERCLA, 42 U.S.C. § 9601(21).

15. The Site constitutes a "facility" within the meaning of Section 101(9) of CERCLA, 42 U.S.C. § 9601(9).

16. Respondent is potentially liable under one or more subsections of Section 107(a) of CERCLA, 42 U.S.C. §9607(a), for conditions at the Site and for response costs incurred and to be incurred by EPA relating to the Site.

17. Many of the contaminants found at the Site including, but not limited to, lead, PCBs, antimony, copper, arsenic, cadmium, mercury, nickel, and zinc are "hazardous substances" as defined in Section 101(14) of CERCLA, 42 U.S.C. § 9601(14).

18. The presence of hazardous substances at the Site and their past, present or potential migration from the Site, constitute actual and/or threatened "releases" as defined in Section 101(22) of CERCLA, 42 U.S.C. §9601(22).

19. On September 30, 2005, the Director of the Emergency and Remedial Response Division for EPA Region 2 signed an Action Memorandum for the Site to facilitate Federal funding for a removal action if the Respondent decides not to perform such action voluntarily.

#### **V. DETERMINATIONS**

20. The conditions present at the Site constitute a threat to public health, welfare, or the environment based upon factors set forth in Section 300.415(b)(2) of the National Oil and Hazardous Substances Pollution Contingency Plan ("NCP"). These factors include, but are not limited to, the following conditions:

- a. Actual or potential exposure to nearby human populations, animals or the food chain from hazardous substances or pollutants or contaminants;
- b. Actual or potential contamination of drinking water supplies or sensitive ecosystems;
- c. Actual or potential exposure to nearby human populations from hazardous substances, pollutants or contaminants; and
- d. Weather conditions that may cause hazardous substances or pollutants or contaminants to migrate or be released.

21. The actual or threatened release of hazardous substances at and from the Site may present an imminent and substantial endangerment to the public health, welfare, or the environment within the meaning of Section 106(a) of CERCLA, 42 U.S.C. § 9606(a).

22. The actions required by this Settlement Agreement are necessary to protect the public health or welfare or the environment, are in the public interest, and are consistent with CERCLA and the National Contingency Plan ("NCP"), 40 C.F.R. Part 300.

STOPPED